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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 11 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

later: Mr. PARK

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1997/4, 5 and 37; E/CN.4/1998/3-E/CN.4/Sub.2/1997/35 and Corr.1; E/CN.4/1998/4-E/CN.4/1998/4-E/CN.4/Sub.2/1997/36)

1. Ms. SHAUMIAN (International Institute for Peace) said that progressive societies were recognized by the rights that they bestowed on their people, the normal means being to frame constitutions and legal and institutional structures to ensure that every citizen was equal and enjoyed equal opportunities. When a nation introduced systems militating against that possibility, the abuse of human rights became inevitable.

2. Shortage of time prevented her detailing her strictures on Pakistan, with its feudal social structures, religious fundamentalism and extremism and the nexus between the army and the ruling group, leading to gross violations of human rights. She expressed concern that the Sub-Commission had been addressed by a Government Minister speaking as a representative of the World Muslim Congress: it was surely wrong for a Government to speak from the platform of a non-governmental organization (NGO).

3. Mr. CHOWDHURY (Observer for Bangladesh) said that modern values had been shaped by such disparate influences as Socrates, Confucius and the medieval introduction of habeas corpus, leading to a wide variety of systems that had, none the less, to find a common basis of acceptable conduct stemming from shared beliefs. The Bangladeshi ethos, which was rooted in the past and reflected in the present, saw human rights in holistic terms, to be addressed in a comprehensive manner. Human rights were linked to the practice of democracy, respect for the rule of law, the pursuit of justice, the search for peace and the quest for development. His Government had adopted a number of measures to advance the cause of human rights. The first was the decision to establish an independent National Human Rights Commission, preparatory work for which was already in hand. With support from the United Nations Development Programme (UNDP) a project had been undertaken for the institutional development of human rights to create awareness among the common people about their rights. The participatory rural appraisal approach enabled people at the grass-roots level to identify their own problems and propose solutions. Measures to ensure easy access for rural people to facilities for the resolution of disputes were also under consideration. One proposal was to establish Grameen (village) courts, which could adjudicate at the pre-trial stage and reduce litigation. Legal aid committees had already been formed at district and field levels. The Government was also actively considering the establishment of the office of ombudsman to ensure transparency in administration and redress grievances.

4. Immediately after assuming office, the Government had taken fresh initiatives concerning the Chittagong Hill Tracts. The National Committee set up to deal with the matter, which included MPs from the Hill districts, had significantly narrowed differences between the two sides. Movement had also

been registered on the repatriation of tribal refugees from the camps in the Indian State of Tripura. Bangladesh and India were fully committed to cooperating with each other for facilitating the process. Bangladesh took pride in being a pluralist, democratic and tolerant society. It had sought to embrace all positive values across a broad spectrum. It believed in the rule of law, not rule by law. Its actions were intended to enlarge, not constrain freedom. In that context, NGOs should maintain eternal vigilance, complementing the Government's own work on human rights.

Statements equivalent to the exercise of the right of reply

5. Mr. DEMBRI (Observer for Algeria) rejected the schematic allegations regarding his country by the International Federation of Human Rights (FIDH), which repeated the wording of the report of its so-called "international inquiry", issued in June 1997. FIDH had spent six days in Algeria and had relied on anonymous testimonies and specious data which it had failed to verify.

6. FIDH was acting as a mouthpiece for an organization affiliated with it, the Algerian League for the Protection of Human Rights, whose Chairman, far from being impartial, was notorious for having promoted religious extremism. The Algerian people had not forgotten that he had been a member of the first Government after independence and a fervent supporter of a single party system. When Algeria had adopted a pluralist system in 1989, he had most opportunely become a convert to the defence of democracy and human rights. By its association with him and by entering political and partisan territory, FIDH forfeited any credibility in its allegations. It was therefore not surprising that neither in its report nor in its statement to the Sub-Commission on 6 August had there been any reference to the reforms in Algeria, the rise of pluralism and the evolution to a State governed by the rule of law and no mention of the pluralist elections in the presence of international observers or the building of a constitutional structure based on separation of powers, the sovereignty of the people and universal suffrage.

7. It was, however, a matter for surprise that unlike others, including the Officer-in-Charge, High Commissioner/Centre for Human Rights, FIDH had not expressed any condemnation of the barbarous terrorism that attacked Algerian and foreign men, women and children. Such an omission was significant and denied any authority to its views on the situation in Algeria. He wondered why FIDH, which accused Algeria of dissimulation and lies, had not at any time between its foundation in 1922 and Algerian independence in 1962 spoken out against the inhuman conditions meted out to the Algerian people during the colonial period, the special powers assumed by the colonial authorities and army, the repression, torture and extrajudicial executions committed daily between 1954 and 1962 or the internment camps in France. When FIDH answered those questions, its approach to the international protection of human rights might become clearer. Instead of having recourse to libellous denunciations and unfounded allegations it should have submitted to the United Nations treaty and non-treaty bodies to which Algeria was party documented reports on any case in its possession concerning the violation of human rights by the police. Algeria would certainly have responded to any communications by the special rapporteurs and working groups.

8. Mr. AL-MADI (Observer for Saudi Arabia) noted that the representative of the International Association for Religious Freedom had attributed to the President of Italy some declarations of a religious nature during a visit to Saudi Arabia. The visit had been an official working visit, the main objective of which had been to support and strengthen the economic, political and commercial relations between the two countries. The International Association for Religions Freedom had based its remarks on observations published by the mass media, a fact that called into question the seriousness of statements and reports made by that and other NGOs.

9. Saudi Arabia's Constitution, based on Islamic Sharia, respected and observed religious freedom. It made no objections to non Muslims practising their rites at home. The freedom of private life and the inviolability of the home were assured, in conformity with article 18, paragraph 3, of the International Covenant on Civil and Political Rights. Christians and Jews therefore had equal rights in society, as dictated by the tolerant Sharia. Saudi Arabia was willing to accept any constructive views on the matter, appropriately discussed, in an impartial and objective way. More than 5 million foreign workers living in Saudi Arabia on provisional contracts and for limited periods enjoyed all the rights of Saudi citizens, such as free education, the right to establish private schools for foreign communities, and free medical services, as well as exemption from taxes, freedom of movement, freedom to transfer funds and general security. Such a large number of workers would hardly choose to live in a country that violated their rights. Lastly, Saudi Arabia was conscious of the impressive humanitarian role undertaken by the Sub-Commission. He hoped that his clarification was sufficient to refute the allegations by the International Association for Religious Freedom.

10. Mr. DE ICAZA (Observer for Mexico) said that in its oral statement to the Sub-Commission and as well as in its written statement FIDH had claimed that there had been a serious deterioration in human rights in Mexico during the last three years, supporting its allegations by partial citations from the reports of the Committee on the Elimination of Racial Discrimination (CERD) and the Committee against Torture (CAT), while omitting the fact that those reports had recognized the effective measures taken by the Government to increase protection for human rights.

11. Mexico was fully open to international cooperation on human rights. In 1996 a mission from the Inter-American Commission on Human Rights had been received and been given every facility to carry out its programme. Mexico had submitted its periodic reports to CERD and CAT in good time. Both bodies had acknowledged the Government's cooperation. The Special Rapporteur on the question of torture was to visit the country shortly. FIDH itself, and other NGOs, had also sent missions. The growing interest of NGOs in human rights in Mexico reflected the wide-ranging debate currently taking place in that country. The Government promoted dialogue and cooperation with NGOs with a genuine concern for human rights, though some misunderstandings had occurred, particularly with regard to the issue of migrants. Administrative procedures had been improved to guarantee the safety and facilitate the work of genuine promoters of human rights. NGOs should not, however, be used by activists to achieve their own ends.

12. Contrary to what FIDH had stated, there was no pattern of gross and systematic violations of human rights in Mexico. Violations did occur in numbers, but not as State policy; the necessary mechanisms to prosecute those responsible existed. Steps had been taken to improve progress towards the rule of law and democracy. Constitutional reforms included the establishment of a new Supreme Court of Justice, with members elected by the Senate and with broad powers to decide on the constitutionality of legislation. Criminal legislation and the internal regulations of institutions responsible for the administration of justice had been improved in 1996.

13. It was surprising that FIDH claimed that there were restrictions on the exercise of civil and political rights. The international community had witnessed Mexico's efforts to improve its democracy. Federal elections a month earlier had brought in a new House of Deputies and a Mayor of Mexico City had been elected for the first time. The elections had been nationally and internationally recognized as free and fair, as had the previous elections for the Presidency. FIDH had criticized the country's economic policy for favouring inequality and social exclusion. Any restructuring or organization involved sacrifice. In order to enter world markets, Mexico had established strict fiscal and monetary discipline and undertaken a programme of economic reform, which had produced positive results: a rise in the gross domestic product, reduced inflation, a stable exchange rate and above all, an improvement in employment levels. The social situation would improve along with the economy and with increased social investment, to which the Government currently devoted 53 per cent of its spending.

14. FIDH and other NGOs had referred to the conflict in Chiapas and to what they called "militarization" there and elsewhere. The Government, however, continued to seek a just peace through dialogue, not force. The use of armed forces in Chiapas and in other parts of the country was based on the relevant legislation in order to ensure public peace and to preserve order in the face of armed gangs, the illicit arms trade and drug trafficking. Mexico respected freedom of opinion and valued the activities of NGOs and even considered occasional exaggerations to be of use, but it was concerned if they were excessive, since that could harm the credibility of such organizations, which were necessary for both democracy and human rights.

15. Mr. AL-HADDAD (Observer for Bahrain) said that some NGOs had made allegations that lacked precision and impartiality, were derived from unreliable sources and tried to exploit international organizations working for the protection of human rights. His country supported the freedom of individuals, whatever their nationality, colour or religion. Bahrain was constantly improving its record on human rights in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments and covenants. Since 1994 his country had suffered from violence and terrorism by groups aiming to achieve their political goals and change the political regime, often supported by foreign sources. Holy places had been destroyed and people, including foreigners - three Indians and two Bangladeshis - had been killed in public places. Bombs continued to be planted in cars and shops. Those responsible for such outrages did not represent Bahrain in any way; they commanded no public support, but merely aimed to sow division.

16. Respect for human rights had improved considerably in his country; it had been agreed with the International Committee of the Red Cross that its representatives could visit prisons freely and Bahrain was also cooperating with the Commission, the Centre for Human Rights and with various special rapporteurs. Bahrain desired peace, security and tolerance. It was working to improve the standard of living for all its inhabitants, who came from many different countries and societies. A recent report from UNDP had stated that Bahrain enjoyed one of the best rates of development and growth in the Arab world. Bahrain rejected violence; tolerance and respect for others was part of its heritage. Since 1993 it had taken giant steps to involve the people in the management of the country: the Consultative Council had been set up to that end. He urged all who loved peace to denounce the violence that Bahrain had suffered. His country would not allow terrorist groups to destroy all that had been achieved; violence would ultimately be overcome.

17. Mr. DE AZEVEDO CONSTANTINO (Observer for Angola) said that the International Association of Educators for World Peace had claimed that Cabinda had been occupied by Angola and that its people had suffered flagrant and systematic violations of their human rights. There was no legal foundation under international public law for that question to be raised, since Angola had been independent since 1975 Cabinda was an integral part of the country. Its frontiers, as established at the time of independence were unalterable and the reference to self-determination was therefore inappropriate, since it applied to independence and colonial peoples.

18. Since the allegation had no legal basis, it must be of a political nature, which ran counter to the spirit of the Sub-Commission. Far from Angola's having committed flagrant and systematic violations of human rights, its efforts to comply with international human rights instruments had been applauded by various missions from the Commission and Sub-Commission and other human rights bodies. The International Association of Educators for World Peace should be reminded that the spirit of confrontation was not consistent with the Sub-Commission's methods of work.

19. Mr. MALAMBUGI (Observer for the United Republic of Tanzania) said that one of the participants in the debate under agenda item 2 had made disparaging remarks about the embargo imposed on Burundi by neighbouring countries and the role of mediators in the search for peace in that country. His Government wished to assure the Sub-Commission that it was aware of the fact that sanctions alone were not a panacea for the ills afflicting Burundi or a substitute for negotiations between the parties involved. Nevertheless, it was also aware that in the long term, and in combination with other measures, sanctions played a critical role in nudging parties to a conflict into undertaking face-to-face negotiations.

20. Over the years, sanctions had been seen to work in Zimbabwe, in Namibia, and more recently in South Africa. At the time, those calling for the imposition of sanctions on the regimes in power had been similarly bombarded with the well-worn refrain that sanctions did not work and hurt those they were designed to assist. The sanctions imposed on Burundi had the objective of nudging the regime into restoring constitutional order, by measures including the restoration of the National Assembly, and the unbanning of political parties. Though regrettable, the suffering sanctions inflicted on

innocent civilians was an inescapable fact, not only in Burundi, but also elsewhere, whether in Cuba, in the Libyan Arab Jamahiriya, or in Iraq.

21. Nevertheless, leaders of the countries that had imposed the embargo had been very conscious of its undesirable effects. Consequently, they had taken measures to match each and every step taken to resolve the conflict by the Buyoya regime, by relaxing sanctions on certain products such as medical supplies, farm implements and fertilizers, which had an adverse effect on the civilian population. The embargo would be further relaxed whenever the Buyoya regime took further steps to resolve the conflict.

22. One fact conveniently overlooked by critics of the embargo was the negative effect it had on the economies of the neighbouring countries, which were in fact the biggest losers from the unstable situation in Burundi. His own country, for example, was losing over US$ 6 million each month in revenue from transit trade to Burundi. In addition, since 1993 it had given asylum to over 400,000 refugees from Burundi, in addition to the 300,000 from the pre-1993 era who were still in camps in the United Republic of Tanzania. Nonetheless, it regarded that loss in revenue as a necessary sacrifice that it would continue to make until a durable solution to the problem was found. No amount of criticism would divert it from that goal.

23. Insofar as it related to the former President of the United Republic of Tanzania, Mwalimu Julius Nyerere, the comment by one expert that the embargo served the interests of international mediators who did not want to lose face was most unfortunate. He was confident that those aware of events in Africa and of President Nyerere's role would join him in dismissing that particular comment with all the contempt it deserved. A more constructive approach would be for critics who wished Burundi well to join in the efforts to assist the Burundi in resolving their problems, rather than disparaging African initiatives to solve African problems. Such patronizing attitudes were more appropriate to the 1880s than to the dawn of the twenty-first century.

24. Mr. EGUZ (Observer for Turkey) said that several NGOs had voiced unfounded allegations concerning Turkey under agenda item 2. Significantly, those allegations had referred only to Turkish citizens of Kurdish origin, and nothing had been said on the question of Kurdish Workers' Party (PKK) terrorism. Turkey was a unitary State, and a secular, pluralistic democracy based on the rule of law. It had a multiparty system under which an orderly transition of power took place by free and fair elections. More than 20 political parties were currently active in the political arena. Turkish democracy was based on the separation of powers: an independent legislature and judiciary were the pillars of its political system. The media were varied, free and vibrant - more so than in many other democracies.

25. Turkey had been struggling with the scourge of terrorism in its most relentless and repugnant form waged by a Marxist-Leninist terror organization known as PKK, whose declared aim was the destruction of the territorial integrity and political unity of Turkey and its ultimate dismemberment. Since 1984 PKK terrorists had killed 4,276 innocent civilians, including 152 teachers and 29 religious leaders, showing no mercy even to babies, women and the elderly. Almost 90 per cent of those killed had been Turkish

civilians of Kurdish origin, whom it claimed to represent. In the same period, PKK had attacked and destroyed schools, health facilities, factories, petrol stations and farms in the south-east of Turkey.

26. Listening to the unfounded allegations made by those NGOs, one gained the false impression that a problem existed between the Turks and Kurds in Turkey. That was totally untrue. There were 26 distinct ethnic groups in Turkey, and all Turkish citizens, irrespective of their ethnic origin, lived together in peace and harmony and were active in every walk of life. No group was forbidden to use its language or to enjoy its traditions. The State forbade only complicity with terrorism aimed at the destruction of the country's territorial integrity and political unity.

27. Having been subjected to a vicious terrorist campaign, Turkey was determined to bring terrorism to an end. In its quest to eradicate PKK terrorism, it took the utmost care to conform with the rule of law and international human rights standards. At the same time, in parallel with that unrelenting fight, the Turkish Government continued its endeavours to move resolutely on a comprehensive human rights reform programme.

28. Mr. SHEN Yongxiang (Observer for China) said that observers for various NGOs had, as so often in the past, accused the Chinese Government of human rights violations in Tibet. He would not waste the Sub-Commission's time by refuting those unfounded charges one by one. China was a unified country made up of 56 ethnic groups. The Government had adopted a series of measures to promote and protect the human rights of minority peoples. All those measures proceeded from two principles: first, the principle of equality, whereby all the rights and freedoms granted to Chinese citizens under the Constitution and legislation were enjoyed on an equal footing by all its minority nationalities without exception; and secondly, the principle of special protection. In order to guarantee the right of minority peoples to handle their national affairs independently, and to secure better protection and development of their cultural identity, the Government applied a system whereby autonomy was granted to regions with a high concentration of minority nationalities. Those measures and principles had won the support of most minority peoples, including the Tibetan people.

29. Harmonious coexistence, mutual assistance and joint efforts to ensure the prosperity of the motherland were aims shared by all China's ethnic groups. A very few people resorted to fabrication, provocation and the dissemination of ethnic hatred in an attempt to undermine China's national unity and divide its territory. All such attempts were doomed to failure.

30. Mr. MAZAKIAN (Observer for Armenia) said that his delegation had studied the appalling letter from the Ambassador of Azerbaijan dated 8 August 1997 and contained in document E/CN.4/1997/139. It strongly denied the content of that document, a prime example of the Azerbaijani propaganda machinery designed to discredit Armenia, Nagorny Karabakh and the entire peace process. To mislead the Sub-Commission with such defamatory and false statements was highly unethical.

31. Nine years previously, when the people of Nagorny Karabakh had been arguing by peaceful means for their right to self-determination, the

Azerbaijani authorities had organized armed mobs that had begun pogroms against Armenians in the Azerbaijani city of Sumgait. After further pillage and killings, in the spring of 1991 the leaders of the current Azerbaijani regime, assisted by the Soviet army, had organized the deportation of the Armenian population of Nagorny Karabakh and the surrounding 24 regions. There had followed a cycle of large-scale Azerbaijani military offensives designed to produce a military solution to the conflict by annihilating the population of Nagorny Karabakh, mirroring the similar fate experienced by the people of that region in the first two decades of the century. Against that historical background, his delegation was convinced that the best solution would be to restore the fundamental and lawful rights of the 250,000 Armenians living in Nagorny Karabakh by addressing their constitutional demand for the right to self-determination.

32. Mr. MOUSSAIEV (Observer for Azerbaijan), responding to the statement made by the Observer for Armenia, said that many myths and legends surrounded the history of Armenian-Azerbaijani relations, but that one of the most cynical of those myths, which was used to justify aggression against Azerbaijan and the occupation of part of its territory, was the myth of the conflict between the Armenian community of Nagorny Karabakh and the Government of Azerbaijan, and the claim that the Republic of Armenia had no hand in the occupation of those Azerbaijani lands. In 1989, in violation of all norms and principles of international law, the Parliament of Armenia had taken the unprecedented decision to annex the Nagorny Karabakh region, part of the territory of another State. It was legitimate to ask whether a supreme legislative body could decide to annex another State's territory without having territorial claims on that State. It was also to be noted that that decision had been implemented by the National Army of Armenia, using mercenaries and terrorist groups.

33. In a series of resolutions the United Nations Security Council had stressed the need to respect the sovereignty, territorial integrity and inviolability of Azerbaijan's internationally recognized borders, and the inadmissibility of using force to acquire that territory. It had also demanded the immediate, full and unconditional withdrawal of all Armenian forces from the occupied areas of Azerbaijan. The Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and other international organizations had also stressed that the political settlement of the conflict must be based on the principles of territorial integrity and inviolability of Azerbaijan's borders. The question was clearly not one of exercise of the right to self-determination, but of violation of article 2 (4) of the Charter of the United Nations. Under international law, ethnic minorities as such did not enjoy a right to self-determination, which was a right of peoples.

34. Finally, he wished to set the historical record straight by informing the Sub-Commission that Karabakh as a whole as well as its highlands had always been an integral part of Azerbaijan. The resettlement of Transcaucasia by Armenians had begun only in the first half of the nineteenth century.

35. Mr. MAZAKIAN (Observer for Armenia) said that the statement just made by the Observer for Azerbaijan totally contradicted the facts. Azerbaijan had recently embarked on a vicious and mean-spirited propaganda campaign based on

misinformation and unfounded accusations. That action should be condemned, as it contradicted all international norms of behaviour and ethical principles. His delegation regretted the fact that the Azerbaijani delegation had chosen to embark on such a destructive approach, at a time when the co-chairmen of the OSCE and its Minsk Group had decided, after an interruption of more than five months, to resume the negotiation process. Instigating provocation and spreading false information was not the way to reflect the spirit of compromise and confidence-building that Azerbaijan claimed to support. His delegation would like to believe that the statement just made did not reflect the true intentions of the more moderate leadership of Azerbaijan. It called on the Azerbaijani delegation to renounce provocative statements and instead to concentrate on the real issues of the agenda.

36. The CHAIRMAN said that the Sub-Commission had concluded its consideration of agenda item 2.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA (agenda item 3) (E/CN.4/Sub.2/1997/6 and 31; E/CN.4/Sub.2/1997/NGO/3 and 4).

37. Mrs. WARZAZI said that she had not taken the floor on agenda item 2 because many experts, and in particular Mr. Khalifa, had expressed her views more eloquently than she could have done herself. She commended NGOs and observers for their contributions to the debate on that item, which had greatly eased the experts' task.

38. Introducing agenda item 3, she said that problems associated with immigration were of great concern to host countries and countries of origin alike. The former, invoking their economic problems, expelled a substantial number of migrant workers who had contributed to their economic prosperity and had taken on unpleasant or dangerous jobs that nationals wishing to climb the social ladder had refused to undertake. Illegal migrants - those without official papers - encountered the barriers thrown up around European and other countries, after undertaking arduous journeys usually organized by traffickers whose main aim was to strip them of their possessions and leave them defenceless.

39. As for the countries of origin, they were mired in economic and social difficulties or internal and external conflicts: unemployment, drought, massacres or the threat of armed conflict that drove thousands to seek work or sanctuary in safe and peaceful countries. The authorities were powerless to control those exoduses. Since 1972 the international community had considered the question, but without much success, for in some countries the plight of migrant workers was going from bad to worse. Racism had reached crisis proportions, leading to arson, armed attacks and murder. That extreme manifestation of racism had led the General Assembly to recommend the holding of the seminar on Immigration, Racism and Racial Discrimination held in connection with the Third Decade to Combat Racism and Racial Discrimination.

The seminar had been held at the Palais des Nations, Geneva, from 5 to 9 May 1997, and had occasioned an extremely rich debate, with a particularly valuable contribution from NGOs, affording her considerable consolation for the frustration she had experienced during debates on migrant workers in the Sub-Commission in recent years.

40. The proceedings of the seminar were excellently reflected in the report drafted by its rapporteur. The final conclusions broke new ground, reflecting more faithfully the situation of immigrants and proposing realistic and feasible solutions. They were three in number. First, if migratory flows continued to increase, that was because poverty in the third world was increasing, and also because, in spite of the crisis they invoked, the developed countries required additional manpower. Secondly, immigration should not be perceived as a problem, but rather as a phenomenon affecting, inter alia, persons obliged to leave their own countries. Thirdly, the question of migration could not be dissociated from the process of globalization of the world economy. In that connection, the seminar had revealed the blatant contradiction between free movement of goods and the increasingly draconian trend towards restricting the movement of persons.

41. After drawing attention to the reasons for the disparity in development between North and South, the seminar had concluded that stabilization of populations and individuals in their countries would depend on the formulation of a genuine policy for development and cooperation at international level. It had affirmed that immigration could bring substantial benefits to the host countries and societies, which were enriched not only economically, but also socially and culturally. That conclusion should be drawn to the attention of public opinion and host societies, most of whom regarded migrant workers merely as usurpers of jobs and recipients of social benefits - which, as the debate had shown, were not in fact automatically accorded to migrant workers even though they paid their contributions.

42. Similarly, their cultural contribution was not given its due, even though all studies and forecasts affirmed that the future of nations lay in interbreeding and a mix of races and cultures.

43. When members of a host society found themselves in direct contact with immigrants, as had happened following the murder of the Moroccan girl Loubna Ben-Aissa in Belgium, they realized the extent of their misconceived prejudices. Dialogue between communities was thus imperative, as it made a positive contribution to changing preconceived attitudes and encouraged peaceful coexistence. A public opinion poll carried out by Princeton Survey Research Associates in June 1997 had found that persons who had regular contact with new immigrants were more accommodating than in the past. Forty-five per cent of Americans questioned thought that immigrants had a positive impact on their country, while 42 per cent took the opposite view. Those figures were an improvement on the period 1993-1995, during which 60 per cent of the American public had thought that migration had an adverse effect on the rest of society and should be reduced.

44. The seminar's recommendations included one addressed to receiving States, whose approach to integrating immigrants must guarantee the preservation of their cultural identity. The seminar had also recommended the launching of a world information and education campaign supported by the

Governments concerned, intergovernmental organizations and NGOs, to encourage States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

45. Another recommendation concerned remedies available to victims of racism, and also to migrants without official papers, enabling them to report crimes and violations of their rights to the police authorities and to act as witnesses during court proceedings.

46. An innovative recommendation to come out of the seminar was the request to Governments to review the question of granting dual nationality to immigrants; such action would help to integrate immigrants and preserve their culture and begin to break the vicious circle of intolerance. The seminar had emphasized the usefulness of consultations with associations representing immigrants, while recognizing that the protection of their rights should not lead to further separation of families or disregard the negative effects of the formation of immigrant ghettos. It had expressed particular concern about the situation of women. It had also been recognized at the seminar that the 1503 procedure could be an effective means of applying pressure to States that failed to react to flagrant violations of the human rights of immigrants.

47. The situation of migrant workers had changed little in the quarter of a century since the Sub-Commission had first put forward the idea of a convention to protect their rights. Indeed, it might be said to have worsened, as racism had become mingled with hate, and was even encouraged by some politicians. It was the duty of Governments to be severe towards those who stirred up violence, and to create conditions in which mutual respect and understanding, not merely tolerance, could exist within communities. If human rights were to assume their full significance, the international community must be persistent and vigilant in pursuing the long and at times difficult process of eradicating racism, hate, violence and segregation.

48. Ms. McDOUGALL said that the recent letter from the Chairman of the Committee on the Elimination of Racial Discrimination to the Chairman of the forty-eighth session of the Sub-Commission (E/CN.4/Sub.2/1997/31) contained several interesting proposals that the Sub-Commission could usefully explore, particularly the suggestions that the Sub-Commission should explore the effectiveness of affirmative action programmes and the rights of non-citizens. She would, however, like to focus on the issue raised by the Committee, of whether references to race should be removed from national and international legal texts on the grounds that using the concept of race lent gratuitous support to those who believed in the superiority of certain races or ethnicities. She noted that the Committee had also lamented the incredible claim by some States that there was no racial discrimination in their societies.

49. In the United States of America, there had been a call to reformulate questions pertaining to race and ethnicity in the census, which was taken every 10 years. Recent versions of the census had asked respondents to identity themselves as belonging to one of four groups and one of two ethnic categories. However, in recent years it had become clear that the population did not fit neatly into such structured categories. After careful study of the alternatives, including the elimination of all such classifications or the

inclusion of a new multiracial category, the unanimous recommendation was that those basic categories should be retained but that individuals should be allowed to choose more than one racial category in the year 2000 census.

50. From a global perspective, vast population movements in the post-colonial era had created societies of ever greater diversity. In places where racial diversity was linked to other forms of social or economic crisis, racial distinctions were becoming more rather than less significant. While the notion of race might have little scientific or biological basis, it did have a powerful social and cultural content that was often distinct from issues of colour, ethnicity or national origin. Moreover, race was not a static or unitary concept. It was necessary to continue using the concept as a classification for data collection and analysis, for without acknowledging and dealing with the social construction of race in societies it became difficult to attack the reality of racial discrimination and patterns of racial disparities. As long as race constituted the fault lines for the distribution of poverty and wealth, hierarchy and exclusion power and subordination, the classification of race would be required if those disparities were to be remedied. It had to be recognized that population data had to be collected and then disaggregated along racial and ethnic lines to guarantee that States fulfilled their international obligations to eliminate the direct and indirect manifestations of racial discrimination while ensuring basic civil, political, economic, social and cultural rights for all without distinction. Such information was particularly crucial in measuring indirect discrimination and served as a baseline for remedial affirmative action programmes.

51. The Committee on the Elimination of Racial Discrimination had itself noted the need for States parties to the International Convention for the Elimination of All Forms of Racial Discrimination to provide relevant information on the demographic composition of populations (General Recommendation IV, HRI/GEN/1/Rev.1) and recommended that such information should generally be based on self-identification by the individuals concerned (General Recommendation VIII, HRI/GEN/1/Rev.1). The Sub-Commission should therefore strive to include in its own work disaggregated data on the extent to which discrimination or violations of economic, social or cultural rights in a given society might be correlated with racial, ethnic or gender distinctions, in contravention of well-established international norms.

52. Turning to the question of the convening of a third world conference to combat racism and racial discrimination, xenophobia and related intolerance, she noted that the Economic and Social Council, at its most recent session, had taken note of resolution 1997/74 of the Commission on Human Rights and had called on the General Assembly to convene such a conference not later than the year 2001, and had recommended that the Commission should act as the preparatory committee for the conference. She believed that the Sub-Commission should be centrally involved in shaping the content and methods of work of such a world conference, and should consider how best to do so. In her view, the conference should act as something of a wake-up call, to alert member States to the fact that the principal objectives of the two Decades for Action to Combat Racism and Racial Discrimination had not been attained. Its effectiveness would be enhanced by the meaningful participation of non-governmental organizations, which would emphasize the need for action

at the national level to support actions taken at the international level. The conference should also seek to highlight the increasingly violent nature of racial discrimination and the impact of the multiple barriers faced by those who existed at the intersection of discrimination based on race, gender and extreme poverty.

53. Ms. FARHI (International Council of Jewish Women) expressed deep concern at the growing exploitation by racist, xenophobic and other anti-social groups of the most powerful medium of communication thus far developed, the Internet. The use of the Internet by such groups to promote their neo-Nazi or radical nationalist and racist ideology, to access ideas and resources and to vilify their targets had been extremely well documented and described in a research paper published by the Institute for Jewish Policy Research in the United Kingdom.

54. The far-right race-hate and xenophobic material used on Internet was particularly dangerous since it mainly reached a vulnerable young population whose technological and communications skills marked them as potential future leaders in society. Facilities afforded to racist groups to access the Internet by non-racist free-speech activists in some United States universities were causing growing concern. Those activists had become hosts to Holocaust denial material. Holocaust denial was the link that bound together many far-right organizations, the pseudo-academic Institute for Historical Review in California a well-known promoter of Holocaust denial had a major presence on the Internet.

55. In Sweden, in 1993 intense revisionist propaganda coupled with vehement anti-semitism had been published on the Fido Net BBS. In Germany, the Thule network had been developed specifically to allow far-right extremists and neo-Nazi groups to communicate with one another. In the United States of America and Europe, Cyberspace was said to be used by the far-right to act as an international contact point. Needless to say, the Internet was being used to publish anti-semitic "hate" articles and to publicize details of sophisticated racist computer games.

56. The potential of the "information super-highway" must not be put at the disposal of dangerous groups spreading anti-humanistic and violent theories. That hate material amounted to a denial of the most fundamental right of the human person, the right to physical and spiritual integrity. Cyberspace was not in a different world; it was part of society and society could not survive without minimum standards of ethical behaviour. Consequently the Internet should be regarded no differently from other means of disseminating ideas. The provisions of the International Convention on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, which regarding incitement to racial hatred evidently also applied to it.

57. There was a need for an interim Internet policy and a code of good practice, pending the development of a more comprehensive policy to determine what could legitimately be accessed on computer. Institutions could, for example, adapt their existing policies on race and discrimination and extend them to cover the Internet. In the long term, it would be highly desirable to establish an international body to monitor the dissemination of racist and

other harmful material and to investigate complaints with the help of national bodies, and for Governments to evaluate seriously the scope and gravity of the abuse of the Internet by destructive elements of society.

58. Mr. Park took the Chair.

59. Mr. KIPKYACHARIAN (Movement against Racism and for Friendship among Peoples), speaking about immigration policy in the countries of the European Union, said that none of those countries had yet taken any steps to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. He hoped that the principle of non-discrimination, affirmed at the Union's recent intergovernmental conference in Amsterdam, would be speedily implemented and so put an end to the precarious situation of non-citizenship in which over 10 million people found themselves. Perhaps migrants could be given the status of citizens of Europe or all the countries of the Union could adopt the International Convention. The distinction drawn by the Union between racism and immigration was difficult to maintain when xenophobia, mostly directed at migrant workers, was so closely linked to racism. He added that racism, in the guise of ethnic tension, was not restricted to Europe, but was to be found throughout the world where historical and structural inequalities were pronounced.

60. Any positive outcome of the European Year against Racism was due in large measure to the commitment of anti-racist non-governmental organizations, which were united in calling on the Union to draw up anti-racist legislation, to reform laws on the right to asylum, in accordance with the definitions of international law and the requirements of the modern world, and to follow a non-exclusive policy on citizenship. He commended recent measures against racism taken in several countries of the Union, such as France, which were a hopeful sign, even though unscrupulous politicians were becoming decidedly more populist in their attempts to exploit xenophobia for political ends.

61. He welcomed the call by the Commission on Human Rights for the convening of a third world conference to combat racism and racial discrimination xenophobia and related intolerance, which should be prepared for by a series of regional conferences without fear of what was normally termed "politicization", as any debate on racism was bound to raise awkward questions. He suggested that an excellent starting point for analysis would be the words of Albert Jacquard: "A racist is someone whose anger is misplaced". The most beneficial discussion at the world conference would deal with reality, such as why anger arose, rather than generalities.

62. He urged the Sub-Commission to adopt a resolution supporting the principle of holding regional preparatory conferences, with the emphasis on their practical scope. Pitiful attempts to justify the neo-fascist philosophy that no progress was conceivable without the existence of inequality had spread from the United States and the United Kingdom to France, where racial inequality was openly affirmed by politicians of the far right. The eradication of racial discrimination was still some way away, but much could be done in the meantime to ensure that it came to be perceived as an absurdity.

63. Mr. CHISHI SWU (Society for Threatened Peoples) said he was pleased to report a positive development in the struggle of the Naga people, who had been asserting their right to self-determination for the past 50 years. The Indian leadership had declared its intention to seek a political solution to the Indian-Naga issue and the Indian Government and the National Socialist Council of Nagaland had agreed that talks should be held without conditions, at the prime ministerial level and at any venue outside India.

64. The Society for Threatened Peoples and the Naga people, who firmly believed in the doctrine of non-violence, welcomed the statesmanlike approach of the Indian leadership which had opted for dialogue rather than continued confrontation. A ceasefire agreement had come into effect on 1 August 1997.

65. The Nagas expressed profound gratitude to the Unrepresented Nations and Peoples Organization (UNPO) which had helped them in their quest for a peaceful solution. They appealed to the international community to support the peace process so that the Naga people would never again be the victims of atrocities and have war forced upon them.

66. Mr. ZEPHYRIN (Survival International) appealed for the protection of the Batwa pygmy minorities living in the war-torn Great Lakes region. The Batwa were a disappearing people who were unable to plead their own cause because of ignorance and extreme poverty. Many had been killed in the recent ethnic conflicts in Rwanda, Burundi and the Democratic Republic of the Congo (former Zaire) or used as scapegoats by politicians. The pygmy population of those three countries amounted to no more than 120,000 people, some living in the forest as their natural environment and others driven there without compensation by other communities.

67. During the 1994 conflict in Rwanda, some 10,000 Batwa had been killed and 3,000 imprisoned. Following an appeal at the forty-eighth session of the Sub-Commission, the Rwandese authorities had begun to cooperate with the Batwa minority associations but none of the pygmies imprisoned after the genocide had yet been given a court hearing.

68. In Burundi, 5,000 out of a total population of some 20,000 pygmies had lost their lives through war, poverty, lack of proper hygiene, periods spent in quarantine and marginalization. At the forty-second session of the Sub-Commission in 1990, the International League for the Rights and Liberation of Peoples had made an appeal for the Batwa of Burundi, but there had been no response, either by the Burundi authorities or by international organizations.

69. In the Democratic Republic of the Congo, which had a population of some 80,000 pygmies (known as Mbuti), many had been killed and their possessions plundered.

70. It was time to devise a strategy to protect the pygmy minorities and to prevent further discrimination, killings and abuse. He invited the Chairman of the Sub-Commission and Mrs. Daes, Chairperson of the Working Group on Indigenous Populations, to visit the minorities concerned in Rwanda.

71. Mr. Chong Kil MYONG (Liberation) said that Koreans in Japan were subjected to systematic racial discrimination by the Japanese Government.

After the liberation of Korea from Japanese colonial Government in 1945, Koreans who had been forced to migrate to Japan tried to recover the right to use the Korean language and learn about Korean history and culture by establishing independent schools, of which there were currently more than 140 in Japan. Although their curriculum was the same as that of their Japanese counterparts except for extra lessons in Korean language and history, the Japanese Ministry of Education refused to recognize the schools and to accord them the same rights as Japanese schools and schools for other aliens. Graduates from Korean schools were barred from taking entrance examinations for Japanese State-run universities and other institutions.

72. The Korean education programme was denied the official subsidies to which it was entitled. Contributions to school building and repair projects, which should normally be exempt from taxation, were also denied preferential fiscal treatment. As a result, the reconstruction of the dilapidated Tokyo Korean Middle and High School, the biggest Korean school in Japan, was imposing a heavy financial burden on the Korean community.

73. The Government's antagonistic policy had spread anti-Korean sentiment among some sections of the Japanese public. There had been more than 160 cases of violent assault on Korean girl students wearing traditional Korean dress.

74. Although Japan had ratified the International Convention on the Elimination of All Forms of Racial Discrimination, it had never taken any action to compensate for its past war crimes and to end discrimination against Koreans in Japan. Liberation and the Construction Committee of Tokyo Korean Middle and High School urged the Sub-Commission to pay close attention to the situation of the Korean community in Japan and called on the Japanese Government to abandon its discriminatory policy.

75. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said she was encouraged by the decision of the new French Government to review the immigration law enacted by the previous Government. She was discouraged, however, by reports of deaf Mexicans being lured to the United States to labour as street vendors.

76. Her organization, which was focusing on the issue of women migrant workers, had organized a round table on the subject during the fifty-third session of the Commission on Human Rights. The Special Rapporteur on violence against women had noted on that occasion that migrant women were doubly marginalized, as women and migrants, and were often also subjected to racism and other forms of discrimination. On the issue of violence against female migrant workers, she had said that the international community had recently made it clear that States had a duty to take preventive action against such violence committed by private persons.

77. In June 1997, the Churches' Commission for Migrants in Europe and the Friedrich Ebert Stiftung had organized an experts meeting on "Black and migrant women in Europe: access to and mobility within the labour market and decision-making structures". Emphasis had been laid on the role of migrants

themselves and migrants' organizations in presenting the community with positive examples and role models in order to change negative public attitudes.

78. A Philippine organization in the Netherlands reported that the "au pair" system was being abused by host families. Au pairs were often obliged to work 60- or 70-hour weeks and were not covered by labour law because no work contract had been signed.

79. The situation of women migrant workers had not so far been discussed in depth in connection with racism and racial discrimination. Her organization therefore welcomed a recommendation, adopted in May 1997 by the participants in a Seminar on Immigration, Racism and Racial Discrimination held in connection with the Third Decade to Combat Racism and Racial Discrimination, concerning the need to give particular attention to female migrant workers. It was regrettable, on the other hand, that the Committee on the Elimination of Racial Discrimination (CERD) had not been sensitive to gender issues despite the recommendation by the persons chairing the human rights treaty bodies in September 1996 that treaty bodies should consider the gender implications of each issue discussed under their respective instruments (A/51/482). At that meeting, the Chairman of CERD had transmitted the majority view of his Committee, only two of whose 18 members were women, that it was for the Committee on the Discrimination of All Forms of Discrimination against Women (CEDAW) to deal with cases of racism against women. While her organization supported most of the topics proposed by CERD for study by the Sub-Commission (E/CN.4/Sub.2/1997/31), it recommended that the issue of double discrimination through a combination of racist and sexist behaviour should be studied jointly by members of the Sub-Commission, CERD and CEDAW.

80. Ms. ALI (Afro-Asian Peoples' Solidarity Organization) said that groups, often with weapons to back their views, had recently been articulating ideologies which sought to justify discrimination on grounds of creed and religion. Discrimination with violent overtones, based on tribal, ethnic and religious intolerance, was growing. The current fighting in Afghanistan had a strong tribal and ethnic dimension. Terrorist groups owing allegiance to one religion sought to destabilize societies where other religions and cultures predominated.

81. Democracy and secularism must be strengthened as the most effective bulwark against discrimination, which was often practised by those who had never believed in true democracy or who questioned its tenets because they failed to fulfil their own aspirations. Discrimination in South Asia was at its worst in areas where democracy had not put down firm roots. In Pakistan, for example, there was marked institutional, constitutional and legal discrimination against certain groups such as the Ahmadiyah, who had been declared non-Muslims, and the Mohajirs, who were persecuted on account of their distinct cultural identity.

82. The extremist armed groups who killed and pillaged in Jammu and Kashmir were also motivated by intolerance of otherness. Harmonious coexistence, the essence of the South Asian creed, was anathema to the armed groups who sought to destabilize the countries of the subcontinent.

83. Well-funded and organized education programmes were needed to inculcate ideas of interdependence and coexistence. The NGO community must play its part through constant interaction both with the oppressed and their oppressors. Moreover, the education programme must be given teeth through a system of international censure. An enlightened society could only be achieved if the international community set about educating those Governments whose very constitutions and legal and institutional structures legitimized policies of discrimination.

84. Ms. JOICE (International Progress Organization) said that racial discrimination stemmed from a variety of economic, social and cultural causes. Education failed to lay adequate emphasis on the fact that racial differences did not make one people superior to another. Nations that had formerly prided themselves on being a melting-pot of civilizations were currently in the forefront of attempts to restrict the free flow of people. Economic fears were given racial overtones by references to a rising tide of immigration. Newcomers were seen as a threat to the established - and by implication superior - way of life. Xenophobia was spreading at an alarming rate and many advanced countries were the worst offenders in the application of selective procedures to outsiders. Even the granting of tourist visas depended increasingly on the colour of a person's skin or the size of his wallet.

85. A majority of the advanced countries had entered reservations to the International Convention on the Elimination of All Forms of Racial Discrimination. Issues of domestic politics and economics had begun to take precedence over human values. In many poor developing countries, discrimination on the basis of caste, creed and colour was rooted in ignorance and tradition. Such prejudice could be eliminated through education and economic development. But in the developed countries, discrimination seemed to be rooted in the desire to deny others a share in the cake of prosperity and it was easier to deny admission when the persons concerned were culturally, racially or ethnically different. The treatment meted out to visa applicants from developing countries in the embassies of the advanced countries showed the extent of their commitment to the elimination of racial discrimination. An acknowledgement of that situation by champions of human rights, including the Sub-Commission, would be a first step towards remedying the situation.

The meeting rose at 1 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

later: Mr. PARK

later: Mr. BENGOA

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GE.97-13359 (E)

The meeting was called to order at 10.20 a.m.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA

(agenda item 3) (continued) (E/CN.4/Sub.2/1997/6 and 31; E/CN.4/Sub.2/1997/NGO/3 and 4)

1. Mr. BOUTKEVITCH said he was torn between optimism and pessimism when reflecting on the situation of migrant workers and their families. The optimist told him not to panic: in 1998 the Sub-Commission would celebrate the twentieth anniversary of the inclusion of the item on its agenda. On the other hand, the pessimist in him told him that the situation of migrant workers was actually worsening. The optimist told him that more international instruments had been adopted on that question than on any other human rights issue. But the pessimist insisted that those conventions had no effect. Article 87 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provided that the Convention would enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession. Yet on 31 December 1996 only nine States had ratified it. At that rate the Convention would not enter into force for another 20 years. The optimist in him also pointed to the Sub-Commission's involvement in the topic; but the pessimist noted that even the Sub-Commission itself was unable to decide what aspects of the topic it should focus on, so that it had been shifted from one agenda item to another. Meanwhile, the situation of migrant workers was changing, and not always for the better.

2. After the fall of the Berlin wall, the collapse of the Soviet Union and Yugoslavia, a series of ethnic conflicts and civil wars worldwide, and the opening up of borders in Eastern Europe, only a handful of States had succeeded in controlling migratory flows in the framework of internationally recognized rules. States were often confronted with such a variety of migrants that they had difficulty in accommodating themselves to international standards. In Eastern Europe there were both internal, external and transit migrant groups, who did not always correspond to existing international classifications, so that the result was an increase in discrimination under all the criteria prohibited by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In the States of the former Soviet Union, where once it had been difficult to travel abroad, waves of migration overwhelmed the authorities' efforts to regulate the process. To those waves must be added a parallel flow of refugees from conflicts in the former Soviet Union and Yugoslavia, the effects of which were felt not just in Europe but in the United States of America, Canada and in other continents. States had tightened their regulation of immigration in response to those flows, but the result had merely been an increase in illegal immigration.

3. The reaction of the public and the media in the host States - especially former socialist States where the phenomenon had not previously arisen - had been to see the arrival of migrants as a threat. It had almost never been depicted as a humanitarian problem. Reactions to migrant workers had ranged from tolerance, through xenophobia, to outright hostility.

4. The States of the former Soviet Union had also had to contend with the problem of illegal transit migrants from Africa, Asia and the Middle East exploiting the liberalization of borders as a way of reaching the West. According to the media, 18.2 million foreigners had entered Ukraine in 1995, only 17.4 million of whom had subsequently left. Only half the 80,000 who had remained had registered with the authorities. In Russia there were about half a million illegal immigrants who, having been excluded from society, contributed to a rise in crime, thereby provoking further hostility and xenophobia, in a vicious cycle. However, the main goal of those migrants was the West, and there was a burgeoning trade in illegal transit enterprises. A Pakistan-Ukrainian joint venture specialized in forged transit documents. An Israeli firm in Ukraine specialized in smuggling groups of immigrants under the guise of students: the number of such groups had risen from 5 in 1992 to 91 in the first half of 1995. Furthermore, criminal groups were less concerned about the welfare of human beings than of other commodities they handled: a refrigerated lorry stopped at the Ukrainian border with Slovakia in 1996 had been found to contain 40 Chinese immigrants, 10 of whom had had to be treated in intensive care.

5. He could give many other examples, but nothing was to be gained from so doing. The fact was that migrant workers were now worse off than any other social group - less unified, less active, and more intimidated. That was hardly surprising in view of the fact that article 13 of the aforementioned Convention accorded them the right to freedom of expression, but then went on to list no fewer than 13 limitations on that right. Could any other article in any other Convention be cited that imposed so many limitations on a vitally important right? Would any State on Earth prove incapable of repressing its migrant workers on the strength of that article? The Sub-Commission must set up a sessional working group on the subject of migrant workers, and there must be more active discussion of the subject within the Sub-Commission itself.

6. Mr. GUISSÉ said he wished to move away from the rather narrow confines of agenda item 3 as worded in the agenda of the current session, and to recall certain principles that had been referred to in the past in the context of racism and racial discrimination. Following the studies conducted by the United Nations Educational, Cultural and Scientific Organization (UNESCO), the concept of race had become broader, encompassing criteria that had not previously been taken into consideration. The terms "racism" and "racial discrimination" thus covered a variety of situations. Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination enumerated, inter alia, colour, descent and ethnic origin as criteria, exclusion on the basis of which constituted racial discrimination. The important point, however, was that millions of persons were systematically and totally excluded, and that in some countries such exclusion had been elevated to the status of a system of government.

7. The Working Group on Contemporary Forms of Slavery dealt competently with a phenomenon that wrought havoc among vulnerable groups, including indigenous populations, minorities and workers. Those new forms of slavery were merely an intensification of traditional practices of slavery. In some countries slavery was a contemporary reality, practised with the full knowledge of the public authorities and international institutions. An informant who, fearing for his safety, wished to remain anonymous, had informed him that by virtue of the social rules of his country he was a slave, and that consequently his wife and children were also slaves belonging to the same master. He was thus unable to give his daughter in marriage without the consent of his master, who would certainly make that consent conditional on the daughter's offspring also becoming his slaves. Such a degrading system was worse than apartheid.

8. In States that were a buffer zone between two civilizations, those in power generally excluded other groups from power by means of de jure and de facto discriminatory practices. The victims of such a system of government knew neither the rule of law nor respect for human rights, dignity and freedoms. When they attained crisis proportions, discriminatory practices constituted a negation of all human rights and fundamental freedoms. Like underdevelopment or the absence of peace, slavery was a framework for the violation or disregard of human rights. The duty of solidarity of all nations and peoples should make it possible to eradicate that evil at the dawn of the third millennium, and also to sweep away all forms of discrimination.

9. For many people in many countries, the mere fact of being different was grounds for exclusion, the most striking example being the field of justice, which was administered differently according to a person's colour, condition and origin. In such countries, there was a two-track system of justice: one system for the rich, the Whites and the invaders, another system for the poor, the Blacks and the indigenous inhabitants. Under such a system, justice could not be fair, justice could not even be just.

10. Turning to the situation of migrant workers, he said that the difficulties they and their families encountered began in their countries of origin, where de jure and de facto obstacles were imposed on their right to leave their own country and to return to it. In the host countries, however, they faced a truly unendurable agony. They were herded like cattle into frontier police premises, where they were sometimes subjected to inhuman and degrading treatment, in full view of national and international institutions. Immigrants were frequently to be seen emerging from those premises bearing the marks of torture and of the chains they had worn, reminiscent of the black slave trade. Those frontier police were generally outside State control. In the past, the Sub-Commission had called for their regulation by the United Nations or any other competent international agency.

11. Needless to say, the victims were always black men and their families. In the slavery-like practices to which they resorted, frontier police stations resembled concentration camps. Migrant workers left those premises with profound physical and psychic sequelae. Host countries systematically ignored the right of habeas corpus: migrant workers were deprived both of their liberty and also of any protection of their person.

12. Once their ordeal at the hands of frontier police was over, they were faced with racism in their daily lives. They had difficulty in finding secure and hygienic housing, and were exposed to diseases, poverty and hunger. If the laws of the host country permitted them to do so, they then went in search of work; but found only low-grade and poorly paid employment, and were the last to be recruited and the first to be dismissed in times of recession. Meanwhile they were subjected to police harassment, culminating in their expulsion in circumstances again reminiscent of the transportation of animals and the slave trade. Many of them lost their lives in the process, or were simply murdered in cold blood by police who enjoyed impunity, sometimes with the complicity of the host State and the international community. If they took sanctuary, even in a place of worship, its doors were broken down, and their place of refuge was sometimes burned to the ground. Women and children were the victims of twofold discrimination.

13. He had recently been asked whether black people were becoming racists. That was indeed the case: in the circumstances a backlash was inevitable - one more dangerous, more difficult to pin down, more difficult to control, one which would have adverse economic consequences, and which constituted a threat to world peace.

14. Mr. KHALIFA said that racism was so serious an issue that it was absurd to attempt to tackle it in 10 or 15 minutes. Members of the Sub-Commission, their predecessors and their collaborators had worked on the subject for 50 years, producing statements, reports, and in some cases even books on the question. Some of them were unquestionably authorities on the matter. Yet the end result of those endeavours was simply that racism was on the rise. Nor could the Sub-Commission claim even to be on the way towards finding a solution to the problem. He had personally made some 29 statements on the issue over the years, but all to no avail. However, that did not necessarily mean that the Sub-Commission was to blame; for racism might well be part and parcel of human nature, and a phenomenon that was there to stay. As long as there was an "I" and an "other", that otherness would give life to racism.

15. That might very well be so. But one question remained: who was to be held responsible for the constant increase in racism? The Sub-Commission must persist in its endeavours to alleviate the pain of humanity, which was sometimes a self-inflicted pain.

16. If the Sub-Commission had ventured to call terrorism "the scourge of our time", racism must surely be acknowledged to be the scourge of <u>all</u> time. It was even safe to assume that racism was the root of all evil. One could not even dismiss the possibility that a very close connection existed between the recent resurgence of racism and the increased incidence of terrorist acts. One need only think of the incidents that had taken place in Somalia a year or so previously, at the hands of United Nations forces who supposedly reflected the conscience of the world community. Those incidents had undoubtedly had very strong racial overtones.

17. A tentative analysis suggested that ideology had temporarily lost its edge since the collapse of communism and the landslide victory of capitalism. But since it seemed that human existence depended on conflict, another source of conflict had had to be sought. Victorious capitalism had been expected to

bring with it a juster world economic order. Instead, it had ushered in a new order of greed in which a "winner takes all" philosophy prevailed, and had brought together the strong and the weak in a long embrace that might end in a kiss of death. That new order had been baptized "globalization".

18. He did not intend to discuss globalization in detail. Nonetheless, globalization was one big global lie. Why? Because economies did not operate in a vacuum, but in the context of a diversity of cultures that belied the postulate of the "global village".

19. In an article published in 1993, Professor Samuel Huntington had suggested that ideological conflict would be replaced by cultural conflict. While that theory was broadly acceptable, economic issues should not be overlooked, as culture and the economy were very closely intertwined. A world of cultural divisions was thus emerging, together with a world in which economic violence prevailed, so that there was a confrontation between the superiority of the successful and the frustration of the unsuccessful - fertile ground for the growth of racism. One need only note the explosion of xenophobic feeling and actions, and the ferocity with which migrant workers, and even ordinary travellers from other cultures, were rejected.

20. Professor Huntington further considered that following the cold war the clash of civilizations would be between the Christian West and the rest of the world and that there would be no ultimate global civilization. It was a convincing view, given the unjust economic order which denied all but a few the benefits of growth and development. Confucian China had once been the most advanced country. The Islamic empire in Baghdad, Seville and Granada had been a light of rationalism and science while Europe had still been in the dark. The leading countries during the current Christian era would make the same mistakes as others had done in the past. Even in the United States of America, where heroic war had been waged against slavery and discrimination, racism was on the increase and the confrontation between the haves and the have-nots was easily recognized. President Clinton had referred to the divide of race as America's "constant curse" and public opinion polls showed that educated African-Americans, in particular, believed that Blacks and Whites would never learn to get along. Racism was embedded in hearts and minds and could not be easily uprooted, whether by persuasion, education, legislation or force. The failure to realize that strength, ingenuity, achievement and survival came through diversity rather than through the so-called purity of race was indeed a curse. American pop culture, for example, had such wide appeal precisely because it emanated from the juxtaposition of many cultures, which gave it a rich cosmopolitan character.

21. The West's economic interests ensured its continuing engagement in other cultures, but the danger was that cultural discomfort levels would come to dictate foreign policy and that racial feelings would hold too much sway. Africa and the Islamic world were particularly vulnerable to such sentiments. Not only was racialism unjust, and soul-destroying, but by affecting political attitudes and decisions it could be disastrous for the future of mankind.

22. Lastly, no discussion of racialism could ignore South Africa, where de facto apartheid continued to exist. Whites had lost their political

monopoly, but the big five conglomerates, under white management, representing 75 per cent of the market capitalization of the Johannesburg Stock Exchange, remained in control of the economy, and the Government was dragging its feet on revising the antitrust laws for fear of offending them. It was a matter of deep concern that there had been no improvement in the lot of the general population, who continued to suffer from abject poverty, unemployment, ethnic rivalry and pervasive criminality. The black elite had been sucked into the white machine, distancing themselves from the people and revelling in their new status. It was a frightening development. In view of the revelations of evil that had emerged from the Truth and Reconciliation Commission, the Sub-Commission could feel some satisfaction at having contributed with courage to the struggle against apartheid. It should not lose interest; the struggle continued.

23. Mr. EIDE noted two related phenomena that challenged the very foundation of human rights and should therefore be taken very seriously. One was the language, ideology and actions of racism and xenophobia - a problem of long standing - and the other was the language, symbols and actions of ethno-nationalism, which sought to create ethnically pure States by exclusion, enforced assimilation or violent secession. The two phenomena had an element in common: the dogmatic assertion of the desirability of ethnically or culturally homogeneous societies, which implied a rejection of those who were different.

24. Acts of violence against migrants were unfortunately on the increase, usually perpetrated by young men suffering from unemployment or other forms of insecurity but often exploited by cynical political entrepreneurs for their own purposes of political gain. Such violence had often been seen as blind or irrational. Research had shown, however, that it was often initiated or aggravated by "conflict entrepreneurs", who used feelings of demographic stress and personal insecurity to further their own greed or quest for power. Such entrepreneurs could be found among both majority and minority groups, sometimes as leaders of nationalist parties or of violent secessionist movements. They also existed in the academic world: the theories of Professor Huntington - which he could not accept - might turn out to be self-fulfilling prophecies.

25. For maximum effect, the Sub-Commission should seek better coordination with other United Nations bodies and with regional agencies. It should reflect on how best it could serve the needs of the High Commissioner for Human Rights through its analyses and recommendations. It should also draw lessons from such bodies as the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Office of the United Nations High Commissioner for Refugees in the field of prevention of discrimination and protection of minorities.

26. Of particular importance was contact with the Committee on the Elimination of Racial Discrimination (CERD), with which the Sub-Commission should continue its dialogue on their joint and separate roles during the Third Decade to Combat Racism and Racial Discrimination and in the preparatory work for the world conference against racism and racial discrimination, xenophobia and related intolerance. The letter from the Chairman of CERD (E/CN.4/Sub.2/1997/31) contained useful suggestions. Some of the subjects

studied by CERD, while important in themselves, should best be discussed under other agenda items. Others were directly related to the work of the Sub-Commission, which should respond to the suggestions made. One such was that the advisability of referring to definitions of "race" and "racism" in international texts should be studied. That proposal had been extensively examined the previous day by Ms. McDougall, who had explained why the word "racism" would have to be retained. It might, however, be necessary to go deeper into the semantics of the word and to compare related concepts such as "descent" or "national or ethnic origin". The notion of "race", as used from about 1750 to 1950, had clearly been based on the dangerous scientific fallacy that there existed separate human races. That was now known to be a misconception, often crudely exploited, but it would still be useful to carry out a semantic study of that and related words. Such a study could also take account of the distinction between the prevention of discrimination, on the one hand, and the protection of minorities, on the other. The distinction between "race" and "ethnic" was that "race" was generally used - often negatively - to describe a hierarchy, in which some people were alleged to be better than others; that related to the prevention of discrimination. The words "ethnic" or "national", on the other hand, did not presuppose any such hierarchy but emphasized the different identities of groups which wanted to preserve their identities; that related to the protection of minorities.

27. The second proposal from CERD was to elaborate the implications of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In that context the remarks by the International Council of Jewish Women on the need to prevent the Internet being used for purposes of racial hatred should also be taken into account. Another proposal was to examine issues relating to affirmative action, covered by articles 1.4 and 2.2 of the Convention. Questions to be answered included what circumstances warranted affirmative action, what measures were justified for such purposes and when affirmative action should be brought to an end. Lastly, CERD suggested examining the application of article 7 of the Convention to the freedom of the press, analysing the contradictions between the freedom of the press and the rights of minorities - or of any ethnic group - to be protected from "media messages" which could have racist implications. It was also essential to remain in contact with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. Close attention should be paid to his proposals.

28. In the development of programmes for human rights education, account should be taken of the requirements contained in article 7 of the Convention, under which States undertook to take measures in the fields of teaching, education, culture and information to combat prejudices leading to racial discrimination and to promote understanding, tolerance and friendship. It was highly desirable to study the implementation of that commitment and to evaluate the effectiveness of measures adopted, so that international guidelines for appropriate programmes could be developed. UNESCO should also be involved in the task. A comprehensive programme of human rights education should be developed, beginning in the earliest years at school. The expertise of the United Nations, CERD and the Sub-Commission should be called upon for

that purpose. He welcomed the fact that two members of the Sub-Commission were to meet two members of CERD to discuss the joint working paper on article 7 of the Convention.

29. He recalled that the Commission and the Economic and Social Council had endorsed the Sub-Commission's proposal that the General Assembly should authorize a world conference against racism and racial discrimination, xenophobia and related intolerance. He agreed with Ms. McDougall that the Sub-Commission should be involved in shaping the content of the conference's work, in close collaboration with CERD. The proposals by CERD were therefore very much to be welcomed.

30. Mr. ALI KHAN said that he was particularly concerned by the situation of migrant workers and members of their families. As had been agreed at a meeting of the Working Group on Minorities, the Sub-Commission should tackle the question of the rights of migrant workers in different parts of the world. The solution of the problem depended on the enactment of suitable legislation in the field of citizenship. Mrs. Warzazi had put forward an important suggestion regarding the concept of dual nationality. What such workers required above all, however, was for benefits to be conferred on them. In the eastern parts of India, for example, near the borders with Myanmar and Bangladesh, there were migrant families that had been established for three generations yet still enjoyed no rights or benefits. He therefore believed that, as had previously been suggested, a right of domicile should be conferred on such people, if it was not acceptable to allow them full citizenship. In English jurisprudence "domicile of choice" and "domicile of origin" were well-established concepts. He could see no insuperable legal problem in conferring the right to a "domicile of choice" for a person who was permanently or semi-permanently resident in a foreign country. It might not be easy to reach agreement on dual nationality in the current climate of world public opinion, but it was terrible that such hapless people were denied any rights at all, not even a domicile of choice.

31. Mr. Park took the Chair.

32. Mr. WADLOW (Association for World Education) was concerned about the independence of special rapporteurs and their ability to propose remedial actions in fulfilling their mandates. Any pressure, political or otherwise, limiting their independent evaluation of an issue struck at the heart of the whole system of protection enshrined in the International Bill of Human Rights. It was a matter of vital importance. If, in preparing for the new world conference against racism and racial discrimination, xenophobia and related intolerance, limitations were accepted, the effect would be to make hollow a structure that was only beginning to have the respect it needed to withstand the currents of worldwide hate. Already in 1994 the Permanent Representative of the Sudan had requested that references to human rights in his country should be withdrawn from the report to the Commission of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1994/48), in which he had indicated inconsistencies between the international human rights Conventions to which Sudan was a party and some provisions of its Criminal Act of 1991. The Permanent Representative had claimed that the report "contained abusive, inconsiderate, blasphemous and

offensive remarks about the Islamic faith". On that occasion, however, the Commission in its resolution 1994/79 had accepted the Special Rapporteur's recommendations and had called on the Government of the Sudan to comply with international human rights instruments. That had been reiterated in all subsequent Commission resolutions, including resolution 1997/59. The request by the Government of the Sudan to introduce modifications, including deletions of paragraphs in the report, had been unanimously rejected. Another accusation of "blasphemy" had, however, surfaced. At the final meeting of the fifty-third session of the Commission a decision had been taken to request "corrective action" in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. His organization had circulated a written statement on the question (E/CN.4/Sub.2/1997/NGO/3) and the matter would be raised at the meeting of persons chairing the human rights treaty bodies in September. The effort to limit the independence of the Special Rapporteur had taken place in his absence and most of the negotiations concerning what had become decision 1997/125 had taken place in private, so that NGOs could make no contribution. In such circumstances NGO cooperation was made virtually impossible and the suspicion must be that such crucial decisions were made by the "boys in the back room".

33. The topic under attack had concerned the section of the report dealing with anti-Semitism. The accusation of blasphemy, launched by Indonesia on behalf of the Organization of the Islamic Conference and by Turkey, had been directed specifically at a quotation in the report from an annual survey on anti-Semitism worldwide, under the sub-heading "Islamist and Arab Anti-Semitism". The "offensive reference" had read: "The use of Christian and secular European anti-Semitism motifs in Muslim publications is on the rise, yet at the same time Muslim extremists are turning increasingly to their own religious sources, first and foremost the Koran, as a primary anti-Jewish source."

34. The crux of the matter was the validity or otherwise of the statement that had led to the accusations of "blasphemy". His organization had illustrated its accuracy, providing bibliographical references, in document E/CN.4/Sub.2/1997/NGO/3. It had also provided therein details of a subsequent article by an Islamist writer, Dr. Mustafa Mahmoud, published on 17 May 1997 in Al-Ahram International, which confirmed the validity of the above quotation that was considered blasphemous.

35. It was a dangerous precedent for charges of "blasphemy" to be given credence by the Commission on Human Rights. All forms of racism and discriminatory attitudes, including those transmitted by religious thought and teaching, whatever the source, must be given serious analysis.

36. Further calls for censorship had been made at the 1997 substantive session of the Economic and Social Council, in particular a demand that the sub-heading "Islamist and Arab Anti-Semitism" should be removed from the report of the Commission on Human Rights (E/CN.4/1997/71).

37. He urged the Sub-Commission to support the unanimous position adopted at a meeting in May of special rapporteurs and other persons operating under the special procedures of the Commission on Human Rights to the effect that

special rapporteurs should not be requested to amend their reports merely because certain passages were deemed offensive by a particular member State or group of member States.

38. Mr. KANE (African Commission of Health and Human Rights Promoters) deplored the recent upsurge in intolerance, xenophobia and racial discrimination vis-à-vis migrant workers, asylum-seekers and refugees. In Germany, arsonists had attacked the homes of immigrant workers and asylum-seekers. In France, immigrants without proper papers, most of them from Mali, had been returned to their countries by the military, and second-generation immigrants were increasingly ostracized. On 16 May 1997, the newspaper Le Monde had accused the Court of Conflicts of seeking to restrict foreigners' right of appeal against administrative decisions. It was to be hoped that the new Government would redeem its pledge to ease the situation.

39. The treatment of asylum-seekers under the Schengen Agreements was often in flagrant violation of the European Convention on Human Rights. Applicants for asylum could be held in camps for up to four or five years while their files were being considered.

40. In some Arab and African countries and in Israel, certain categories of immigrant worker were ostracized and in some cases their property was confiscated. The behaviour of certain Asian countries which intercepted "boat people", both asylum-seekers and immigrant applicants, was a flagrant breach of international norms and treaties.

41. The States Members of the United Nations must be urged to show greater indulgence to immigrants and refugees. The fortress attitude was particularly disturbing when it applied a single cultural reference to the entire human race and claimed to be operating on behalf of the general good.

42. Mr. VUM SON (International Peace Bureau) said that in the process of decolonization socially and economically marginalized ethnic groups had been incorporated, without their consent, in States ruled by more numerous ethnic groups. The Chin people were forced to live with linguistically, socially and culturally different peoples in Burma, India and Bangladesh. Regimes such as the State Law and Order Restoration Council (SLORC) in Burma institutionalized the forces of xenophobia. The country had been without a constitution since 1988 and every human right, including the rights of the child, had been violated. All schools were closed. Systematic campaigns of racial hatred had been conducted against the seven non-Burman ethnic minorities. No minority was represented in the Government. Christians and Muslims were viewed as ineligible for full citizenship. In the early 1990s, 300,000 Muslim Rohingyas had fled to Bangladesh from their cruel and degrading treatment at the hands of the army. Christian minorities such as the Karen, Karenni and Kachin had suffered similar treatment.

43. Following the mass pro-democracy uprising in 1988, a group of Chin students had set up an armed resistance movement against the SLORC Government, which responded with a systematic anti-Chin campaign. The military broke into people's homes, removed their property and killed their domestic animals. Soldiers were promoted if they married Chin women and further rewarded if they

converted their wives to Buddhism. There had been many cases of gang rape of Chin women by the military and random killings of Chin leaders. The independence struggle had led to an exodus of over 50,000 Chin refugees to neighbouring countries. Offers of a ceasefire by the students went unheeded.

44. Forced labour was used to build roads and military camps. When the army moved, the labourers moved with them, carrying their belongings and abandoning their fields. They were given no compensation or food. Families without able-bodied members were fined large sums. As a result, there were food shortages and cases of starvation had been reported in some areas. People sold their domestic animals and even their houses to pay taxes, which were used to build Buddhist shrines and other public buildings.

45. Burma was one of the poorest countries in the world but had one of the largest armies. Human rights violations by the military regime in its campaign for forced assimilation, Burmanization and conversion to Buddhism were intended to prolong its rule. He drew attention to the report by the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/1997/64) and expressed the view that only United Nations intervention could save its people from their xenophobic Government.

46. Mr. LACK (International Association of Jewish Lawyers and Jurists) expressed his organization's concern at the attempt to interfere with the independence and integrity of special rapporteurs in the bona fide discharge of the tasks assigned to them by the Commission on Human Rights.

47. Commission resolution 1997/73 had commended the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and supported the continuation of his mandate. However, his report (E/CN.4/1997/71) had been criticized just before the close of the session on the grounds that a certain passage had given offence in its reference to a sacred text to which extremist followers were said to have increasing recourse as an anti-Jewish source. In response to objections by a group of States which recognized the inviolate character of the sacred text, a decision had been taken without a vote (1997/125), in which the Commission expressed indignation at the passage and requested the Chairman to ask the Special Rapporteur, who was not present, to take corrective action. The latter had subsequently expunged it from his report.

48. Although his organization understood the sensitivities concerned, since passages from other sacred texts had been distorted for purposes of incitement to anti-Semitism, it considered that subsequent attempts to have the heading under which information was presented in the report removed on demonstrably questionable grounds undermined the Special Rapporteur's role and standing and the credibility of the rapporteur system. It endorsed the appeal made to the Sub-Commission by an earlier speaker to join those who had taken steps to defend the independence of the special rapporteurs against the unjustified attacks by an individual member State or a group of member States.

49. Ms. BROWNE (National Bar Association) said that racial discrimination was neither logical nor scientific and would continue until forthright action

was taken against it. Racial prejudice was a worldwide phenomenon and those who acted on that prejudice did so in the quest for social, economic and political power.

50. The criminal justice system in the United States of America was an example of disparity of treatment on grounds of race. Although psychological, sociological and psychiatric studies had shown that persons of African descent were not predisposed to crime, African-American males, who represented less than 15 per cent of the total population of the United States, accounted for 44 per cent of the prison population. According to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, black women were eight times more likely than white women to go to prison for drug abuse in the United States, and Blacks, persons of Hispanic origin, Asians, Indians or Arabs were likely to receive penalties two or three times harsher than Whites. The construction industry was benefiting from the increase in prison construction and there was a profitable and growing market in stock in privatized prison corporations.

51. She urged the Sub-Commission to ensure that the technical skills, support and resources needed for the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination were made available. She also suggested that the Working Group on Minorities should be made inter-sessional and that a permanent forum on minorities should be created.

52. Her organization supported the convening of a world conference against racism and racial discrimination, xenophobia and related intolerance as a true measure of the desire to eliminate racial discrimination.

53. Ms. BROWN (World Federation of Democratic Youth) commended the report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America (E/CN.4/Sub.2/1993/8), in which he had recommended the revitalization of affirmative action programmes in order to reverse the negative consequences of limited access to education for students of colour. Her organization was greatly disturbed by the recent passing of Proposition 209 in the State of California, which banned affirmative action. It had immediately resulted in a decline in minority admissions to higher education. Unlike their white counterparts, the majority of racial and ethnic minorities could not afford to enter the private education system.

54. In his report on Brazil (E/CN.4/1996/72/Add.1), the Special Rapporteur had documented similar educational discrimination against Afro-Brazilians, whose illiteracy ratio was 12 per cent higher than that of white Brazilians. The cycle of poverty resulting from such discrimination affected the right of Afro-Brazilians to employment and housing.

55. Proposition 187 adopted by the State of California in the United States restricted basic health-care options for people of colour, thereby undermining public safety. It pandered to the desire of the business sector for cheap labour without the corresponding health care and social benefits.

56. Xenophobic and discriminatory sentiment was the motive behind increased border controls by the United States authorities. According to data from both sides of the Mexican border, some 270 Mexican immigrants were dying each year while attempting to cross the Rio Grande river. Officials were not investigating deaths, facilitating autopsies, contacting next of kin or providing death certificates. The Immigration Reform Act and Immigration Responsibility Act of 1996 were part of a growing trend towards hostile and racist treatment of immigrants.

57. Over 90 per cent of cases of the deliberate destruction of places of worship in the United States of America were directed against the African-American and Jewish American communities. Such attacks encompassed an array of human rights violations and contributed to racial unrest.

58. Her organization supported the convening of a world conference against racism and racial discrimination, xenophobia and related intolerance and recommended continued funding for the Special Rapporteur's mandate. It requested the Sub-Commission to schedule the meetings of the Working Group on Minorities in such a way as to increase participation by NGOs. Lastly, it recommended that the Sub-Commission should adopt a resolution establishing a cohesive programme to address racism through the combined efforts of the Working Group on Minorities, the sessional Working Group on the Administration of Justice and the Question of Compensation, the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

59. Ms. BRIDEL (United Nations International Research and Training Institute for the Advancement of Women) said that the subject of women's migration had been neglected for a variety of reasons, including the emphasis on the human capital model in migration theory, an underestimation of women's economic activities and participation in the labour force, and gender bias in social science research. Most importantly, inadequacies in existing data on women's migration and the way in which such data were presented distorted the conclusions of substantive studies. There had been a tendency to classify women as dependants with a primarily non-economic role, although the numbers of male and female migrants were about the same.

60. Better documentation on women's migration would combat erroneous stereotypes about the gender composition of various types of migrant. It was recommended that official publications on international migration should cross-classify data by sex, as knowledge of the determinants and consequences of international migration, and how they varied for men and women, would allow more appropriate policies to be formulated in both countries of origin and destination.

61. In assessing the data needs for analytical purposes, it had to be borne in mind that the characteristics of at least two nation States, and especially of their laws and regulations on migration, had a strong influence on the process of international migration. In order to better analyse and measure international migration, it was essential to distinguish different types of migration flows and to assess women's participation in them, which would usually require changes in the regulatory system used to control migration.

The consequences of migration for women and their families were often shaped by the conditions under which they were admitted to a receiving country. Moreover, laws and regulations in both countries of origin and destination contributed to the determinants of the international migration of women. In the case of female migrants, concerns about protection from abuse had led some countries of origin to impose additional restrictions on their emigration, thus influencing the volume and selectivity of female international migration.

62. Mr. REISCHLE (International Labour Office (ILO)) said that the existence of the Migration for Employment Convention (Revised) of 1949 and the Migrant Workers (Supplementary Provisions) Convention of 1975 as well as other instruments did not mean that migrant workers and their families were adequately protected at the international, or even at the national level, especially against discrimination. The application of the two aforementioned ILO Conventions, as well as any obstacles to their ratification, would be the subject of a general survey by the ILO Committee of Experts on the Application of Conventions and Recommendations in 1998.

63. He outlined the objectives and four main activities of the ILO project, "Combating discrimination against migrant workers and ethnic minorities in the world of work", which was intended to inform all those with an interest in eliminating such discrimination on how legislative and training measures could be rendered more effective. The first activity of the project was to accurately document the level of unlawful discrimination occurring with regard to access to employment. "Practice tests", which monitored the progress of equally qualified migrants or members of an ethnic minority and nationals of the country posing as genuine candidates for the same job vacancy, had produced evidence of unexpectedly high proportions of direct and indirect discriminatory practices.

64. The second and third activities of the project aimed to show how best Governments and social partners could remedy the situation. Findings so far indicated that most States lacked a sufficient legislative basis to combat effectively discrimination against migrant workers and workers from ethnic minorities. The stringent enforcement of comprehensive civil legislation, together with voluntary training and information provision, was of fundamental importance.

65. The fourth activity would bring together the findings of the first three activities in national and international seminars scheduled for 1997 and 1998, and publish those findings together with the conclusions of the seminars. Further details concerning the project could be found in document E/CN.4/Sub.2/1997/25.

66. Mr. CHOWDHURY (Observer for Bangladesh) welcomed the Sub-Commission's timely decision to focus on the rights of migrant workers, as that decision also reflected its concern at the burgeoning manifestations of racism, xenophobia and other forms of discrimination. The issue of migrants was deserving of the Sub-Commission's special interest. There were only limited legal safeguards for legal migrants and hardly any for those in irregular situations. Hostility bred of prejudice created acute problems which were compounded when migrants were made into scapegoats for the ills of the whole society.

67. The protection of migrants' rights was also handicapped by the lack of a widely ratified international human rights instrument, the lack of a formal monitoring and investigative body, the lack of an international agency to promote protection of the basic human rights of migrants, and the lack of a broadly based NGO advocacy movement. The Programme of Action of the International Conference on Population and Development held in Cairo had provided a starting point for a migrants' regime, but attention to the protection of the basic human rights of migrants remained ambivalent in international forums.

68. The concepts of globalization and liberalization of the international economy had become translated into widely embraced contemporary values, but had to be approached with caution. Globalization was not merely a matter of opening markets but also of opening minds and hearts to diversity. The emergence of a genuine borderless market would continue to be impeded as long as a principal factor of production, labour, was excluded from the scheme. The liberalization of trade and services and the management of international migration could be brought together in a single framework, so that trafficking in irregular migrants was replaced by productive trade in goods and services, that was certainly possible if the outcome of the Uruguay Round was effectively implemented. The General Agreement on Trade in Services had opened up new opportunities both for efficiency gains and achieving better management of international migration.

69. In view of the drift and ambiguity in the international community on migrants' rights, Bangladesh welcomed the establishment of a working group on migrants and human rights. It hoped that the expertise of the Sub-Commission would provide useful inputs into its work. It also welcomed positive suggestions made by members of the Sub-Commission during the debate on the current agenda item. The foreigner must no longer be feared; rather, the foreigner's contribution to enriching the lives of all through his labours should be appreciated.

70. Mr. HERNÁNDEZ (Observer for Mexico) expressed strong support for the convening of a third world conference to combat racism and racial discrimination, xenophobia and related intolerance. The issue of international migration had become a major challenge to the international community: the human rights of migrants should be of special concern to the Sub-Commission as they formed a particularly vulnerable group, often rejected by host societies and increasingly subject to alarming human rights violations.

71. Mexico was a country of origin, destination and transit for large numbers of migrants, and it attached great importance to international cooperation, especially with its neighbours, with whom it maintained a process of dialogue, consultation and negotiation. His Government had taken the initiative to organize the first Regional Conference on Migration in 1996, in which Canada, the United States of America, the countries of Central America and Mexico had participated, and which had been followed by a second conference in Panama in 1997. Participants had recognized the complex links between migratory flows and development, and had also agreed on the need to take joint action to alleviate the situation of migrants and promote the respect of their fundamental rights.

72. In Mexico, the National Human Rights Commission and the migratory authorities had set up several programmes to orient and protect migrant workers arriving along its southern borders, and had supplied them all, regardless of their legal status, with information on their human rights and how to protect themselves from violations of those rights. In order to protect Mexican nationals emigrating northwards, the Government of Mexico had set up one of the largest networks of consulates in the world and had established mechanisms for consultation with the Governments of the United States and Canada to address the problems caused by migratory flows. Furthermore, the Mexican Congress had recently passed a bill allowing Mexican migrants to acquire a second nationality, thereby ensuring that they were not unprotected in the countries where they settled.

73. The Government of Mexico was also active in promoting a policy of international cooperation to protect migrants. It was very interested in the proposal made at the recent United Nations Seminar on Immigration, Racism and Racial Discrimination that the persons chairing the human rights treaty bodies, should at their forthcoming meeting, consider whether there were bases for incorporating into the process of monitoring compliance with those instruments information on discriminatory practices obtained by countries from their consulates. Mexico believed that, in view of the increasing vulnerability of migrants all the United Nations mechanisms for the promotion and protection of human rights should pay particular attention to the human rights situation of migrants.

74. His Government continued to promote the early entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. His delegation was confident that the working group set up pursuant to Commission resolution 1997/15 would receive valuable input from the expert members of the Sub-Commission. It urged NGOs to make a positive contribution to the work of the working group. It also urged those regional groups which had not yet put forward a representative to the Chairman of the Commission on Human Rights to do so as soon as possible, to enable consultations with the five experts of the working group to get under way as soon as possible

75. Mr. Bengoa resumed the Chair.

76. Mr. MAMDOUHI (Observer for the Islamic Republic of Iran) noted that there had been an upsurge in xenophobia, racism, neo-Nazi extremism and racial discrimination throughout the world in recent years. As the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had noted, racist propaganda and incitement to ethnic and racial hatred were mounting.

77. In some European countries, thousands of people were being deprived of their basic rights because of their religion, race or ethnicity. There was growing discrimination against Muslim minorities, which had become the preferred target of racist groups. Many European States, while advocating the right to freedom of movement, were closing their borders and expelling large numbers of immigrants. Migrant workers, especially in Europe, were increasingly affected by restrictive government policies, prolonged detention and expulsion.

78. In some instances the media and some political parties had also been involved in the resurgence of racism, xenophobia and intolerance.

79. His delegation believed that the Sub-Commission could make a constructive contribution to the world conference against racism and racial discrimination, xenophobia and related intolerance by acting as a think-tank for discussion on the issue.

80. His delegation also believed that the international community, through its various mechanisms, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, must address the issue of the use of new technologies such as the Internet to disseminate racist and xenophobic propaganda with a view to encouraging the proper and peaceful use of those technologies.

81. Finally, it invited the Special Rapporteur to pay greater attention in his future reports to the increasing racism and discrimination that were being directed at Muslim minorities.

82. Mr. EGÜZ (Observer for Turkey) said that racism was the most serious social and political disease of modern times. He drew attention to the comments of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the unchecked proliferation of racist messages on the Internet and the alarming increase in xenophobia, which was being met with indifference by some of the world's most democratic peoples, who were supposedly devoted to civilized values.

83. Almost 3 million Turkish citizens lived outside their home country as migrant workers, some 80 per cent of whom opted to become integrated in their host country. They had constantly found themselves the targets of racism and racial discrimination, and had been harassed, insulted, beaten, killed and even burned to death in their houses. The item under consideration was therefore of special importance for his country.

84. The statement by the representative of the International Labour Office at the fifty-third session of the Commission on Human Rights acknowledging the problems faced by migrant workers had been most revealing. He had referred to research undertaken by ILO which had substantiated claims of widespread and pervasive discrimination against migrants and provided concrete data on day-to-day discrimination, particularly in the workplace. It had been found that such discrimination, which was mostly of an indirect nature, impeded the integration of migrants into the host society's labour market and thus into the host society as a whole.

85. His delegation believed that the root cause of the problems facing migrant workers was that they were still considered as "foreigners" in their respective host countries. Those countries should pursue policies of integration, not assimilation, in order to remedy the situation of migrant workers.

86. Mr. AMAT FORES (Observer for Cuba) said that, at the end of a century of tremendous scientific and technological progress that bore witness to human intelligence, it might appear absurd that certain archaic concepts should be

blocking the progress of mankind towards a better and peaceful world. Yet the resurgence of racism, racial discrimination and xenophobia, coupled with the emergence in some developed countries of extreme right-wing fascist-type political parties, was doing just that. The dismantling of apartheid had not brought an end to racism and racial discrimination.

87. Intolerance of migrant workers in developed countries and the denial of their fundamental rights was a new manifestation of racism and racial discrimination. The same countries revealed their double standards when, despite their treatment of migrants, they set themselves up as defenders of human rights and presumed to pass judgement on developing countries.

88. A disturbing new development was the use of communication technology to disseminate ideas based on hatred of certain groups and to encourage feelings of superiority in a group or a State. All States had a duty to put an end to that practice, which could not be justified by evoking the right to freedom of expression, since the exercise of individual rights had to be balanced against respect for the higher interests of society.

89. He urged States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to fulfil their obligations and implement it at the national level. He also said that the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, which had been impeded by lack of resources and the indifference of a group of member States, deserved the fullest support of all true defenders of human rights. Finally, he expressed his full support for the decision of the Commission on Human Rights, endorsed by the Economic and Social Council, to recommend to the General Assembly the convening of a world conference to combat racism and racial discrimination, xenophobia and related intolerance before the end of the century.

The meeting rose at 1.10 p.m.